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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,741	07/16/2003	Eberhard Wizgall	10739.18.92.1	8983

22859 7590 09/24/2004

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EXAMINER

OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/620,741

Applicant(s)

WIZGALL, EBERHARD

Examiner

Lars A Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-13, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 4-9 and 14-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. On line 3 of Claim 21, a deck is claimed that is "located I the hull". It is unclear to the examiner where the applicant is intending to claim the location of said deck with respect to said hull of the claimed watercraft.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
5. Claims 1, 3, 10, 11, 13, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Gokan (US 6,746,288).

Gokan discloses the same watercraft as claimed, as shown in Figures 1-5, that is comprised of a hull, defined as Part #14, a deck, defined as Part #15, a propulsion device in the form of an impeller, defined as Part #34, that is carried by said hull for propelling said watercraft, as shown in Figure 1, an engine, defined as Part #20, that is positioned within said hull, as shown in Figures 1-4, said engine driving said propulsion device, and a heat exchanger mounting bracket or holding fixture, defined as Part #26 or 27, with one or more reinforcing flanges, said mounting bracket being coupled to said engine, as shown in Figure 4, and having a seat section that is configured to accommodate a complementary shaped exterior surface of a heat exchanger, defined as Part #50, where said seat section is located on a side of said engine, as shown in Figure 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gokan.

Gokan, as set forth above, discloses all of the features claimed except for the use of a heat exchanger mounting bracket with a seat section that is C-shaped.

The use of a mounting bracket with a C-shaped mounting seat for a heat exchanger would be considered by one of ordinary skill in the art to be a design choice based upon the exterior surface shape of the heat exchanger to be mounted.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a mounting bracket with a C-shaped mounting seat in combination with the watercraft as disclosed by Gokan for the purpose of providing a mounting bracket for a heat exchanger on a watercraft, where said mounting bracket has a mounting seat that accommodates a complementary shape of an exterior surface of said heat exchanger.

Allowable Subject Matter

8. Claims 4-9 and 14-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown (US 6,675,921) discloses a vehicle radiator support structure that includes a radiator, a pair of mounting brackets, and a pair of vibration isolators. Nozaki (US 6,438,949) discloses an exhaust pipe structure with a pair of straps for attaching a heat shielding panel to said structure. Ko (US 6,349,928) discloses a vibroisolating device for absorbing vibrations of a radiator mounted to a

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vehicle. Harris (US 5,685,364) discloses a mounting bracket with a C-shaped mounting seat for attachment to a radiator. Hiramoto (US 4,579,184) discloses a resiliently mounted radiator assembly for a vehicle.

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

September 21, 2004

LARS A. OLSON
PATENT EXAMINER

Lars Olson
9/21/04